

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lara Freishtat	Team: Team # 4	CCRB Case #: 200501478	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/18/2004 11:45 PM	Location of Incident: Corner of White Plains Road & Burke Avenue, the Bronx.	Precinct: 47	18 Mo. SOL 5/18/2006	EO SOL 5/18/2006	
Date/Time CV Reported Mon, 02/07/2005 9:20 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/10/2005 2:36 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Donald Abrams	00085	921890	047 PCT
2. POM Michael Raso	18576	933235	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Maisonette	26597	934284	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Donald Abrams	Abuse: SGT Donald Abrams stopped the car in which § 87(2)(b) was an occupant.	
B.SGT Donald Abrams	Force: SGT Donald Abrams used physical force against § 87(2)(b)	
C.SGT Donald Abrams	Abuse: SGT Donald Abrams frisked § 87(2)(b)	
D.POM Michael Raso	Abuse: PO Michael Raso searched the car in which § 87(2)(b) was an occupant.	
E.SGT Donald Abrams	Discourtesy: SGT Donald Abrams spoke rudely to § 87(2)(b)	
F.SGT Donald Abrams	Abuse: SGT Donald Abrams threatened to issue summonses to § 87(2)(b)	

Synopsis

On November 18, 2004, at approximately 11:45 PM, at the intersection of White Plains Road and Burke Avenue in the Bronx, § 87(2)(b)'s vehicle was stopped by police officers (allegation A). The officers, SGT Donald Abrams, PO Michael Raso, and PO William Maisonette approached § 87(2)(b)'s vehicle and PO Raso asked § 87(2)(b) for his license and registration. Once he provided his paperwork, PO Maisonette returned to the patrol car and ran his information. PO Raso asked § 87(2)(b) to step out of his vehicle and SGT Abrams allegedly pulled him out of the car (allegation B) and frisked him (allegation C). As this was going on, PO Raso searched § 87(2)(b)'s vehicle (allegation D). SGT Abrams questioned § 87(2)(b) and told him not to be a "smartass" (allegation E). SGT Abrams then allegedly threatened § 87(2)(b) with additional summonses if he did not be quiet (allegation F). PO Maisonette then returned to § 87(2)(b)'s vehicle and issued him two summonses.

[illegible]

Summary of Complaint

§ 87(2)(b)

██████████ filed a complaint with the IAB on February 7, 2005 (see enclosure # 3A-3E). He was interviewed at the CCRB on March 12, 2005 (see enclosure # 6A-6D).

On November 18, 2004, at approximately 11:45 PM, § 87(2)(b) was standing next to his car, speaking with a friend of his, when he saw a police car drive by the two of them very slowly. After saying goodbye to his friend, § 87(2)(b) got into his car and drove down the street. He was stopped at a light when the police car from earlier pulled up next to him. After the light changed, § 87(2)(b) began to drive and the police car was driving behind him, when they flashed their lights and pulled § 87(2)(b) over.

A police officer, identified by § 87(2)(b) through his shield number as SGT Abrams, exited the police car and approached § 87(2)(b)'s vehicle. § 87(2)(b) asked him what was wrong but SGT Abrams responded by telling § 87(2)(b) to step out of the vehicle. § 87(2)(b) asked what he had done wrong, but he was again told to step out of the car. § 87(2)(b) opened his car door and SGT Abrams pulled § 87(2)(b) out of the car and threw him against the back of the car. He told § 87(2)(b) to "put his hands against the trunk and spread his legs." SGT Abrams then kicked § 87(2)(b)'s legs open, saying that he had told § 87(2)(b) to "spread his legs apart."

A second officer, identified through the investigation as PO Michael Raso, approached the two of them and SGT Abrams asked § 87(2)(b) where he was going and § 87(2)(b) replied that he was going to New Jersey. He then asked § 87(2)(b) where he had been coming from and § 87(2)(b) replied “New Jersey” because he had originally come from there. SGT Abrams then asked § 87(2)(b) if he “thought they were idiots, because he was coming from and going to New Jersey.” SGT Abrams also called § 87(2)(b) a “smartass” and questioned him about his friend by asking him who he was and what they had been doing together. While this was going on, a third officer, identified through the investigation as PO William Maisonet, was standing silently by the police vehicle.

SGT Abrams asked § 87(2)(b) what he had in the car and PO Raso then searched § 87(2)(b)'s car. He looked on the floor of the car, checked under the seats, and looked through the glove

compartment. § 87(2)(b) could not fully see what PO Raso was doing though because § 87(2)(b) was at the back of the car.

As this was going on, SGT Abrams was frisking § 87(2)(b) by “patting down” his body, though § 87(2)(b) was not sure if he was searched. He thought SGT Abrams asked him to remove everything from his pockets and then checked to make sure everything was taken out.

After SGT Abrams finished frisking § 87(2)(b) he told § 87(2)(b) that he was going to be issued a summons for a broken taillight. § 87(2)(b) also had a “for sale” sign in his car window and the officers told him he was going to get a ticket for that also. § 87(2)(b) asked them why they were treating him like this for a taillight. He told them that they were being unprofessional and that they should not act like this over a taillight. SGT Abrams told § 87(2)(b) that they could have given him more summonses if they wanted to and that “if he kept talking, he would get some more.” § 87(2)(b) responded that they did not have to give him the summonses, he could fix whatever they were saying was wrong with his car.

§ 87(2)(b) then asked SGT Abrams, who he perceived as the officer in charge, for his shield number and precinct. SGT Abrams gave him his shield number and told him he was from the 47th Precinct. After he was given the summonses, the officers then left and § 87(2)(b) went back to New Jersey.

§ 87(2)(b) felt the officers profiled him because he was a young white male from New Jersey in “the ghetto,” speaking with an older black male. § 87(2)(b) felt that the officers suspected him of buying drugs and that is why they stopped him.

§ 87(2)(b) described himself as calm throughout this incident though he got a little upset when he was thrown against the car. Despite being upset, § 87(2)(b) stated that he did not use any profanity towards the officers nor was he disrespectful. § 87(2)(b) also stated that he was a little surprised and jumpy about the situation, because he was confused about it, but he never resisted the officers in any way.

Results of Investigation

Officer Identification:

§ 87(2)(b) identified PO William Maisonette through the summonses he had been issued. § 87(2)(b) had also written down SGT Donald Abrams’ shield number and the patrol car number. A call to the 47th precinct ICO, LT John Castellano, revealed that PO Michael Raso was the third officer involved in the incident.

Officer Statements:

PO William Maisonette:

PO William Maisonette was interviewed at the CCRB on March 24, 2005 (see enclosure # 7A-7D). He stated that on November 18, 2005, he worked the hours of 1800x0200 and he was partnered with PO Raso and SGT Abrams. They were assigned to the Mobile Impact Unit. He was dressed in uniform and he was assigned to patrol car # § 87(2)(b). His memobook states (see enclosure # 7A-7D): “2030- 1 male stopped; 2045- (96)”

On November 18, 2004, PO Maisonette was patrolling with SGT Abrams and PO Raso when they noticed a black Honda Accord with a broken back light at White Plains Road and Burke Avenue in the Bronx. The officers reached an unspoken agreement to pull the car over, so they put on the police lights and sirens and stopped the vehicle.

The officers exited their patrol car and approached the vehicle, PO Raso on the driver’s side, and SGT Abrams and PO Maisonette on the passenger side. PO Raso asked the driver, § 87(2)(b) for his license, registration, and insurance card, and PO Raso proceeded to give the information to PO

Maisonette, who went back to the patrol car to run § 87(2)(b)'s information. Before he returned to the patrol car though, he heard § 87(2)(b) ask PO Raso why he had been stopped and he heard PO Raso explain to § 87(2)(b) the violations he had committed.

While at the patrol car, PO Maisonette checked § 87(2)(b)'s information and after everything checked out, he wrote two summonses to § 87(2)(b) one for the broken taillight and the other for the "for sale" sign § 87(2)(b) had in his back mirror. The sign was an "obstruction of view" and merits a traffic summons. During this time, PO Maisonette noticed that § 87(2)(b) was standing outside of his car, next to the driver's side door, speaking with SGT Abrams and PO Raso. However, PO Maisonette could not hear what SGT Abrams, PO Raso, and § 87(2)(b) were saying to one another.

After writing the summonses, PO Maisonette returned to § 87(2)(b)'s vehicle and issued him the summonses. By that time, § 87(2)(b) had returned to his vehicle and was sitting in the driver's seat. PO Maisonette then explained to § 87(2)(b) that if § 87(2)(b) fixed the taillight within 24 hours and showed proof of it to the 47th Precinct, then the summons would be taken care of. § 87(2)(b) then drove away.

PO Maisonette stated that the first time he had seen § 87(2)(b)'s vehicle was when they pulled him over at White Plains Road and Burke Avenue.

PO Maisonette stated that while he saw § 87(2)(b) outside of his vehicle, he never actually saw § 87(2)(b) exit it. He also stated that he never saw § 87(2)(b) by the back of the vehicle, only near the driver's side door. PO Maisonette stated that he did not see any physical contact between § 87(2)(b) and the officers and that to his knowledge, neither § 87(2)(b) nor his vehicle were searched. Neither SGT Abrams nor PO Raso discussed what occurred during the vehicle stop with PO Maisonette.

PO Maisonette described § 87(2)(b) as compliant throughout the car stop.

PO Michael Raso:

PO Michael Raso was interviewed at the CCRB on April 18, 2005 (see enclosure # 8A-8E). He stated that on November 18, 2004, he worked the hours of 1730x0205 and was dressed in uniform. He was assigned as SGT's Operator and he was partnered with SGT Abrams and PO Maisonette in a marked patrol car. He did not have any entries in his memobook regarding this incident (see enclosure # 8A-8C).

On November 18, 2004, PO Michael Raso was on patrol with SGT Abrams and PO Maisonette when PO Maisonette, from the backseat, saw some signs in the window and possibly a broken taillight on the car in front of them. PO Raso stopped the vehicle containing § 87(2)(b). All the officers exited their vehicle and approached § 87(2)(b). PO Raso and PO Maisonette went to the driver's side while SGT Abrams approached the passenger side.

After approaching § 87(2)(b) PO Raso explained to him why they had pulled him over. He then asked § 87(2)(b) for his license and registration, which PO Raso then immediately gave to PO Maisonette. PO Maisonette then returned to the patrol car and ran § 87(2)(b)'s information. While he was doing that, PO Raso smelled a strong odor of marijuana coming from § 87(2)(b)'s vehicle. He looked at SGT Abrams, who over the vehicle signaled to him that he thought he saw § 87(2)(b) put something under the driver's seat when they had stopped him. PO Raso stated that he could not recall how SGT Abrams signaled him that § 87(2)(b) had leaned down, whether it was a hand motion or if he verbally stated it, but after the signal, PO Raso asked § 87(2)(b) to exit his vehicle. PO Raso stated that § 87(2)(b) did not give them any problems with getting out of the vehicle. He stated that § 87(2)(b) exited his vehicle on his own and was not physically removed from the vehicle.

As § 87(2)(b) was exiting his vehicle, SGT Abrams joined PO Raso at the driver's side of the car. § 87(2)(b) was moved towards the rear of the vehicle and SGT Abrams did a quick frisk of him for weapons for their safety. PO Raso did not think SGT Abrams asked § 87(2)(b) to remove anything from

his pockets. PO Raso then looked under § 87(2)(b)'s front seat with his flashlight to see if anything was there, but he did not find anything. PO Raso denied opening the glove compartment.

As this was going on, § 87(2)(b) had become very irate. He was yelling at them and cursing, and was telling them that they should have been giving him as many breaks as possible, though he did not say why. They informed him that he could return to his vehicle, but he refused. PO Maisonette then issued the summonses to § 87(2)(b) and he returned to his vehicle and drove away.

PO Raso stated that the car stop was the first time he had seen § 87(2)(b) or his vehicle that night.

PO Raso stated that he did not recall § 87(2)(b)'s attitude when they first stopped him. He felt though that § 87(2)(b) became more irate after they had asked him to exit his vehicle.

PO Raso stated that he did not remember anyone asking § 87(2)(b) about the smell in his car or about marijuana. He also did not remember asking § 87(2)(b) where he was coming from and where he was going. He stated that he never heard SGT Abrams speak discourteously towards § 87(2)(b) or threaten him with additional summonses.

SGT Donald Abrams:

SGT Abrams was interviewed at the CCRB on April 27, 2005 (see enclosure # 9A-9C). He stated that on November 18, 2004, he worked the hours of 1715x0212 and he was assigned as the Impact SGT, partnered with PO Raso and PO Maisonette. He was wearing a uniform and he was assigned to a marked motor vehicle. He did not have any memobook entries regarding this incident (see enclosure # 9A).

On April 27, 2005, at approximately 11:45 PM, SGT Abrams was on patrol with PO Raso and PO Maisonette when PO Maisonette, who was in the backseat of the patrol car, noticed the car in front of them had either a broken breaklight or a broken taillight, though SGT Abrams could not remember which. The officers pulled over the vehicle, which contained § 87(2)(b).

All of the officers exited their vehicle and approached § 87(2)(b)'s car. SGT Abrams approached the passenger side and PO Raso and Maisonette approached the driver's side. As he was approaching the car, SGT Abrams saw § 87(2)(b) lean down in his seat, and SGT Abrams suspected § 87(2)(b) had either put something under himself or his seat. SGT Abrams walked up to the front passenger door and shined his flashlight into the car, keeping an eye on § 87(2)(b)'s hands. As this was going on, PO Raso and PO Maisonette had approached the driver's door and were speaking with § 87(2)(b). They asked him for his license and registration, which was handed to PO Maisonette, who then returned to the patrol car.

As PO Maisonette was at the patrol car, SGT Abrams motioned to PO Raso about seeing § 87(2)(b) lean down. He imitated the motion by bringing his arm into his chest and leaning over. He did this to alert PO Raso about possible safety concerns from § 87(2)(b). SGT Abrams then walked around the rear of the car and joined PO Raso at the driver's door. SGT Abrams stated that he did not smell anything in the car, coming from the car, or coming from § 87(2)(b). They asked § 87(2)(b) to step out of the car, which he voluntarily did, without any problems. SGT Abrams did not pull § 87(2)(b) from his vehicle.

Once outside of the car, SGT Abrams took § 87(2)(b) to the rear of the driver's side of the car and patted § 87(2)(b) down, outside the clothing, and around the waist for any weapons. SGT Abrams stated that when frisking § 87(2)(b) he probably asked him if he had anything in his pockets for safety, but he did not ask him to remove anything from his pockets. He denied searching him. As he was doing this, PO Raso was looking under the driver's seat and the surrounding area for anything suspicious. After they concluded the frisk and the vehicle search, they told § 87(2)(b) he could return to his vehicle, but he refused and became belligerent. He began to yell at the officers, saying that they were harassing him, that there were "fucking criminals" out there and that they should be giving him a break. SGT Abrams again

told him he could get in the car and once he receives his summonses, he could be on his way, but § 87(2)(b) refused a second time and continued to act in a belligerent manner. A few minutes later, PO Maisonette re-approached them, issued the summonses to § 87(2)(b) and then the officers returned to their vehicle and resumed patrol.

SGT Abrams stated that the car stop was the first time he had seen § 87(2)(b) or his vehicle that night.

SGT Abrams denied referring to § 87(2)(b) as a “smartass” and threatening to give him more summonses if he did not be quiet.

§ 87(2)(b)

§ 87(2)(b)

Criminal Conviction Histories:

§ 87(2)(b) does not have any criminal convictions (see enclosure # 2A).

Officers’ CCRB Histories:

PO Raso does not have any CCRB substantiations (see enclosure # 1B). However, SGT Abrams has one prior CCRB substantiation (see enclosure # 1A). On May 18, 2004, regarding CCRB case number 200301285, the Board substantiated and recommended charges be brought against SGT Abrams, who at the time was a police officer in rank. § 87(2)(g)

Conclusions and Recommendations

Facts:

The agreed upon facts of this case are as follows: on November 18, 2004, at approximately 11:45 PM, § 87(2)(b)'s vehicle was stopped at White Plains Road and Burke Avenue in the Bronx, by SGT Donald Abrams, PO Michael Raso, and PO William Maisonette. The officers approached § 87(2)(b)'s vehicle and he provided them with his license and registration, which PO Maisonette then checked at the patrol car. As PO Maisonette was doing this, § 87(2)(b) was asked to exit his vehicle and once he was outside of his car, SGT Abrams frisked him and PO Raso searched his vehicle under and around the driver's seat. § 87(2)(b) was issued two summonses, one for the sign in his rear window and another for a broken taillight.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation Not Pleaded:

While § 87(2)(b) thought that SGT Abrams had asked him to remove everything from his pockets, he was not sure that this act occurred. Thus an allegation of searching § 87(2)(b) is not going to be pleaded.

Analysis of Allegations:

Allegation A: SGT Donald Abrams stopped the vehicle in which § 87(2)(b) was an occupant.

The stop allegation is being pleaded against SGT Abrams because he was the supervisor during this incident. It is uncontested that § 87(2)(b) had a broken taillight and a “for sale” sign in the rear window of his vehicle. § 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation B: SGT Donald Abrams used physical force against § 87(2)(b)

§ 87(2)(b) alleged in his CCRB interview that SGT Abrams physically pulled him out of his vehicle. However, the allegation of force had not been mentioned in either of his previous statements.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation C: SGT Donald Abrams frisked § 87(2)(b)

It is uncontested that SGT Abrams frisked § 87(2)(b). SGT Abrams clearly articulated that he feared for his and the other officers' safeties because he saw § 87(2)(b) motion as if he was reaching under the driver's seat. § 87(2)(b), § 87(2)(g)

Allegation D: PO Michael Raso searched the vehicle in which § 87(2)(b) was an occupant.

PO Raso stated that he did search § 87(2)(b)'s vehicle. However, he stated that he did not open the vehicle's glove compartment, as § 87(2)(b) alleged. § 87(2)(b), § 87(2)(g)

Allegation E: SGT Donald Abrams spoke rudely to § 87(2)(b)

Allegation F: SGT Donald Abrams threatened to issue summons to § 87(2)(b)

§ 87(2)(b) alleged that SGT Abrams told him to not "be a smartass," and threatened to issue him further summonses if he did not be quiet, allegations which SGT Abrams denied. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: